

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/043,378 Conf. No.: 4623  
Inventor: Aravind Soundarajan  
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TC/AU: 2612  
Examiner: Shirley Lu  
Docket No.: US010555 (PHB-10-6163)  
Customer No.: 24737

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Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

July 3, 2007

**REPLY TO NOTIFICATION OF  
NON-COMPLIANT APPEAL BRIEF**

Dear Sir:

Responsive to the Notification of Non-Compliant Appeal Brief mailed on June 5, 2007, applicants submit herewith a replacement Summary of Claimed Subject Matter section.

**Remarks** begin on page 2.

## **REMARKS**

In the Notification of Non-Compliant Appeal Brief mailed on June 5, 2007, the Office states that the Summary of Claimed Subject Matter section fails to identify and map independent claim 23 to the specification by page and line number and to the drawings, if any. However, the subject application only includes 19 claims. Thus, this notification was submitted in error.

The subject Summary of Claimed Subject Matter section complies with 37 CFR 41.37 (c)(1)(V) because it includes a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which refers to the specification by page and line number, and to the drawing, if any, by reference characters, and for each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of 37 CFR 41.37, the structure, material, or acts described in the specification as corresponding to each claimed function is identified and set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Upon further review of the Summary of Claimed Subject Matter section, Applicant's representative identified a typographical error. Namely, method claim 12, the last of the four claims (independent claim 1, dependent claim 3, dependent claim 9, and independent claim 12) included in the Summary of Claimed Subject Matter section, was inadvertently identified as method claim 1. However, such a typographical error should not invoke a Notification of Non-Compliant Appeal Brief. (See MPEP §1205.03 - Non-Compliant Appeal Brief and Amended Brief (stating the examiner should not require a corrected brief for minor non-compliance in an appeal brief)). Moreover, the typographical error was not the grounds for the alleged non-compliance.

Furthermore, in the Examiner's Answer to the subject appeal brief (mailed on June 12, 2007), the Examiner states, "[t]he Summary of Claimed Subject Matter contained in the brief is correct," and the Examiner has jurisdiction over whether an appeal brief complies with 37

CFR 41.37. (See MPEP §1205.03 (stating that the question of whether a brief complies with the rule is a matter within the *jurisdiction of the examiner* and the Board) (Emphasis added)). A Patent Appeal Center Specialist deemed the Summary of Claimed Subject Matter section non-compliant, not the Examiner. As noted above, the Examiner determined that the subject Summary of Claimed Subject Matter is correct.

For at least the above reasons, the subject appeal brief is not non-compliant.

However, to expedite prosecution, applicants' representative has attached herewith a replacement Summary of Claimed Subject Matter section that cures the above-noted typographical error. (See MPEP §1205.03 (when the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice.)).

Respectfully submitted,

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## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

With respect to claim 1, a system (reference numerals 150 and 200) for enhanced programming channel-selection control within a television system capable of selectively displaying program input from a plurality of programming channels (FIGS 1 and 2, and claim 1), includes a selector 215 for selecting the programming input to process for display (Page 16, lines 3-16), a timer 237 for timing the amount of time each channel is selected for display (Page 19, lines 7-17), a database 250 for recording channel-selection durations, (Page 20, lines 16-18, and page 22, lines 2-6), and a processor 230 in communication with the database 250 for periodically compiling a program selection control list, wherein the program selection control list includes channels selected and assigned weight values relative to other listed channels, said weighted values calculated according to a pre-determined algorithm from the channel-selection durations stored on the database (Page 18, lines 14-17, page 20, line 16 – page 21, line 3, and page 23, lines 14-20).

With respect to claim 2, a higher weight value is assigned to channels having greater timed viewing durations and wherein the channels listed on the program selection control list are listed beginning with the channel having the highest relative weight value (Page 7, lines 11-17, page 7, line 20, page 8, line 2, and page 23, line 14 – page 24, line 1).

With respect to claim 3, the system further includes a viewer preference profile (Page 21, lines 4-6, and page 24, lines 1-9).

With respect to claim 9, the system is configurable for individual use by more than one viewer, and wherein the processor uses a viewer identity as a factor in determining which program selection control list to use (Page 11, lines 18-21, page 20, lines 16-21, page 21, lines 4-16, and page 25, lines 17-21).

With respect to claim 12, a method for enhancing channel selection in a television system capable of displaying a program selected from a plurality of available program channels (Figure 3, page 22, lines 7-9), includes maintaining a viewing-history record of the amount of time each displayed program channel is displayed by the television system (Page

22, line 18 – page 23, line 11), ranking each displayed channel relative to the other displayed channels according to the display time in the viewing-history record (Page 23, lines 14-20), and creating a program selection control list for one of a plurality of viewers based on the displayed channel ranking (Page 24, line 16 – page 25, line 9).